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UNITED STATES DISTRICT COURT
6
SOUTHERN DISTRICT OF CALIFORNIA
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9 RUBEN MACIAS, MARTHA MACIAS,
10 individuals,

CASE NO. 09cv1374-WQH-JMA
ORDER

11 Plaintiffs,

12 vs.
13 WMC MORTGAGE CORP., a California
Corporation, DOES 1 through 20,

Defendants.

14 HAYES, Judge:

15 On April 28, 2010, Plaintiffs filed a Joint Stipulation for Dismissal Pursuant to Federal
16 Rule of Civil Procedure 41(a)(1)(A)(ii). (Doc. # 34). The Joint Stipulation for Dismissal,
17 which is signed by counsel for Plaintiffs and counsel for the sole remaining Defendant, WMC
18 Mortgage Corp., states: "Pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) and Local
19 Rule 7.2 the parties hereby jointly move the court to dismiss Defendant WMC MORTGAGE
20 CORP., a California Corporation from this action with prejudice." (Doc. # 34 at 1).

21 After filing the Joint Stipulation for Dismissal, Plaintiffs filed a Motion for Leave to
22 File a Third Amended Complaint. (Doc. # 35).

23 Once the Joint Motion to Dismissal was filed, this action was dismissed automatically,
24 without order of the Court pursuant to Federal Rule of Civil Procedure 41(a)(1)(A). See
25 *United States v. Mercedes Benz*, 547 F. Supp. 399, 400 (N.D. Cal. 1982) ("[T]he filing of a
26 stipulation of dismissal is effective automatically and does not require judicial approval....").
27 "An unconditional dismissal terminates federal jurisdiction except for the limited purpose of
28 reopening and setting aside the judgment of dismissal within the scope allowed by [Federal

1 Rule of Civil Procedure] 60(b)." *McCall-Bey v. Franzen*, 777 F.2d 1178, 1190 (7th Cir. 1985).
2 Accordingly, the Court does not have jurisdiction to entertain Plaintiffs' Motion for Leave to
3 File a Third Amended Complaint.

4 The Motion for Leave to File a Third Amended Complaint is not proper at this stage in
5 the case. (Doc. # 35).

6 DATED: April 29, 2010

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8 **WILLIAM Q. HAYES**
United States District Judge

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